

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6735
BILL NUMBER: HB 1302

NOTE PREPARED: Feb 2, 2015
BILL AMENDED: Feb 2, 2015

SUBJECT: Expungement.

FIRST AUTHOR: Rep. McMillin
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Expands Types of Circumstances for Which Petitions for Expungement May Be Filed* – It provides that expungement provisions concerning an arrest that does not lead to a conviction also apply to criminal charges or juvenile delinquency allegations that do not lead to a conviction.
- B. *Expands Where Petitions for Expungement May Be Filed* – It specifies that a person who files for expungement of an arrest, charge, or juvenile delinquency adjudication that did not lead to a conviction or juvenile delinquency adjudication may file the petition in a circuit or superior court.
- C. *Filing Fee Prohibited* – It specifies that a person who files a petition for expungement may not be required to pay a filing fee.
- D. *Certified Copies of BMV Records* – It removes a requirement that Bureau of Motor Vehicles records must be certified.
- E. *Victim Notification* – It provides that, if a court has no discretion in granting an expungement petition, the prosecuting attorney is not required to inform the victim of the victim's rights.
- F. *Open Court Proceedings* – It provides that: (1) a hearing on a petition for expungement shall be held in open court; and (2) the petition and the order for expungement become confidential if the petition is granted and the order is issued by the court.

Effective Date: July 1, 2015.

Explanation of State Expenditures: (Revised) The Indiana State Police report that it has expunged an estimated 3,500 records since March 26, 2014. The State Police also reported having a backlog of 850 requests from between April and August 2014, and has received 800 new requests by mail between

September 2014 and January 2015.

Explanation of State Revenues: *Filing Fee Prohibited* – This provision should cause no revenue reduction. Staff of the Supreme Court's Division of State Court Administration believe that current law does not require a court to charge a filing fee for petitions to expunge either arrests or convictions. The State Board of Accounts has agreed with the Division's position.

Explanation of Local Expenditures: *Expands Types of Circumstances for Which Petitions for Expungement May Be Filed* – This provision could increase the number of filings to remove certain criminal records if an adult is not charged with a criminal act or a juvenile is not charged with committing a delinquent act. Any additional burden to the courts will depend on the number of criminal charges or juvenile allegations that did not result in a conviction.

Expands Where Petitions for Expungement May Be Filed – Under current law, a petition for expungement of records must be filed in the same court that the charges were filed or, if no charges were filed, in a court of criminal jurisdiction. As proposed, a person may petition in any circuit or superior court in the county in which the original filings were made. Depending on the work load in the courts in each county, this provision would permit case loads to be more efficiently distributed between courts in these counties.

Victim Notification – This provision could reduce the workload and mailing costs that the prosecuting attorney may incur. The court is required to order records to be expunged if all requirements in statute have been met for the following:

- An arrest did not result in a conviction or juvenile adjudication; resulted in a conviction or juvenile adjudication and the conviction or adjudication was vacated on appeal; and the person is not currently participating in a pretrial diversion program. (IC 35-38-9-1)
- A person who was convicted of a misdemeanor, including a Class D felony or a Level 6 felony that was reduced to a misdemeanor. (IC 35-38-9-2)
- A person who was convicted of a Class D felony or a Level 6 felony that cannot be reduced to a Class A misdemeanor. (IC 35-38-9-3)

Explanation of Local Revenues: *Filing Fee Prohibited* – The prohibition against charging a filing fee should cause no revenue reduction.

State Agencies Affected: Division of State Court Administration.

Local Agencies Affected: Courts with criminal jurisdiction.

Information Sources:

<http://www.in.gov/judiciary/admin/files/pubs-trial-court-44-expungement-statute.pdf>

Fiscal Analyst: Mark Goodpaster, 317-232-9852.